

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

HERBERT ROGERS, SR.,
Appellant,

and

IOWA DEPARTMENT OF PERSONNEL,
Respondent.

CASE NO. 92-MA-10

FILED
1992 AUG 26 PM 2 22
PUBLIC EMPLOYMENT
RELATIONS BOARD

RULING ON MOTION TO DISMISS

On July 16, 1992, a PERB Administrative Law Judge issued a written dismissal of Appellant Rogers' grievance based on lack of evidence. On August 10, 1992, Rogers filed an appeal of the dismissal with PERB. On August 13, 1992, Respondent IDOP filed a Motion to Dismiss the appeal based on untimeliness. On August 21, 1992, Rogers filed a Response (Resistance) to IDOP's Motion to Dismiss.


As IDOP notes in its Motion to Dismiss, PERB rule 11.8(1) (621 Ia. Admin. Code §11.8[1]) requires that a petition for review of an Administrative Law Judge's decision must be filed with the Board within twenty days of the issuance of the decision. In his response, Rogers acknowledges that his appeal was filed late, but argues, in essence, that the late filing should be excused because his retained attorney failed to properly communicate with him regarding the status of the case. Rogers cites no authority to support the proposition that this constitutes a legally valid exception to the appeal time limit imposed by Rule 11.8(1), and we are aware of none. Rogers' appeal was untimely filed. Accordingly, we hereby issue the following:

RULING

IDOP's Motion to Dismiss is hereby granted, and the appeal is dismissed.

DATED at Des Moines, Iowa this 26th day of August, 1992.

PUBLIC EMPLOYMENT RELATIONS BOARD



RICHARD R. RAMSEY, CHAIRMAN



M. SUE WARNER, BOARD MEMBER



DAVE KNOCK, BOARD MEMBER